

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROY DEN HOLLANDER, and WILLIAM A. NOSAL, on behalf	:
of themselves and all others similarly situated,	:
	:
Plaintiffs,	:
	: 08 Civ. 7286 (LAK)(KNF)
-against-	: ECF Case
	:
INSTITUTE FOR RESEARCH ON WOMEN AND GENDER	: NOTICE OF MOTION
AT COLUMBIA UNIVERSITY, <u>et al.</u> ,	:
	:
Defendants:	:
-----X	

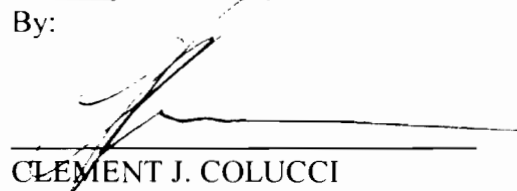
PLEASE TAKE NOTICE that defendants the Board of Regents of the University of the State of New York (“Regents”), Robert M. Bennett, Chancellor of the Board of Regents, Richard P. Mills, Commissioner of the New York State Education Department (“SED”), and James C. Ross, President of the New York State Higher Education Services Corporation (“HESC”) (collectively the “State Defendants”)¹ will move this Court at the Courthouse, 500 Pearl Street, New York, New York 10007, on a date and time to be determined by the Court, for an order dismissing the amended complaint pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, together with such further relief as the Court deems just and proper.

Pursuant to Judge Kaplan’s individual motion practices, a copy of the amended complaint is attached hereto as Exhibit A.

¹ Although the complaint names Chancellor Bennett, Commissioner Mills, and President Ross in their individual and official capacities, the complaint seeks only injunctive relief of the type properly brought against state officials solely in their official capacities. See Hafer v. Melo, 502 U.S. 21, 27 (1991); Ex Parte Young, 209 U.S. 123, 154 (1908). The complaint also names the Board of Regents, a collective body composed of male and female members, see New York Education Law § 202, “in his or her individual capacity.” The collective body has no individual capacity or gender. The proper practice is to name the individual members of the Board of Regents, and sue them in the appropriate capacities – in this case their official capacities.

Dated: New York, New York
January 9, 2009

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By:



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Docket No.: 08 Civ. 7286 (LAK)(KNF) (ECF)

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ROY DEN HOLLANDER and WILLIAM A. NOSAL, on
behalf of themselves and all others similarly situated,

Plaintiffs,

- against -

INSTITUTE FOR RESEARCH ON WOMEN AND
GENDER AT COLUMBIA UNIVERSITY, et al.,

Defendants.

**NOTICE OF MOTION TO DISMISS
AMENDED COMPLAINT**

ANDREW M. CUOMO
Attorney General of the State of
New York

ATTORNEY FOR STATE DEFENDANTS

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Due Service of a copy of the within is admitted this
_____ day of _____ 2009